UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION CASE NO. 5:21-cv-00066-MR

HOLDEN SCOTT SWANSON,)
Petitioner,)
VS.) ORDER
STATE OF NORTH CAROLINA,))
Respondent.))

THIS MATTER comes before the Court on initial review of the Petition for Writ of Habeas Corpus filed by the Petitioner on April 22, 2021 pursuant to 28 U.S.C. § 2254. [Doc. 1]. Also before the Court is the Petitioner's Motion to Compel, filed on July 6, 2021. [Doc. 8].

Petitioner Holden Scott Swanson ("the Petitioner") attempts to raise claims of ineffective assistance of counsel in relation to his criminal proceeding in Catawba County. [Doc. 1 at 1-2]. However, the petition is deficient as it fails to comply with Rule 2 of the Rules Governing Section 2254 Cases requiring habeas petitions to follow a specific format. The Petitioner fails to specify the grounds of relief sought and facts supporting each ground, fails to include dates of his criminal convictions and any appellate or post-conviction relief sought, and fails to sign the petition under the penalty of

perjury. <u>See</u> Rule 2, 28 U.S.C.A. foll. § 2254. As such, the Court will direct the Petitioner to submit an amended petition within thirty (30) days that complies with the procedural requirements.

In his Motion to Compel, the Petitioner requests this Court to order the Catawba County Clerk to provide him with copies of discovery and transcripts. [Doc. 8]. However, there is no automatic entitlement to conduct discovery in a habeas proceeding and parties may engage in discovery only after obtaining leave of court for good cause shown. Bracy v. Gramley, 520 U.S. 899, 904, 117 S.Ct. 1793, 138 L.Ed.2d 97 (1997).

Because the Petitioner has been directed to submit a superseding amended petition that complies with the procedural requirements, there is no proper § 2254 petition presently before the Court. This Court has also not yet issued any order finding the Petitioner's § 2254 petition to be sufficient and directing the Respondent to address the merits of the petition. The motion seeking discovery is therefore premature, and the Petitioner can show no good cause to justify his entitlement to the requested materials at this time. As such, the motion is denied.

IT IS, THEREFORE, ORDERED that:

1. The Petitioner shall have thirty (30) days from the date of this Order in which to file a superseding Amended § 2254 Petition for Writ of

Habeas Corpus in accordance with this Order. Failure to do so may result in the dismissal of this action without further notice.

- 2. The Clerk of Court shall mail a blank § 2254 form to the Petitioner.
- 3. The Petitioner's Motion to Compel [Doc. 8] is **DENIED**.

IT IS SO ORDERED.

Signed: February 7, 2022

Martin Reidinger

Chief United States District Judge